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President: Ms. Al-Khalifa ..... (Bahrain)

The meeting was called to order at 10.15 a.m.

Agenda items 72 and 73

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General transmitting the eleventh annual report of the International Criminal Tribunal (A/61/265)

Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General transmitting the thirteenth annual report of the International Tribunal (A/61/271)

The President: May I take it that the Assembly takes note of the eleventh annual report of the International Criminal Tribunal for Rwanda?

It was so decided.

The President: May I take it that the Assembly takes note of the thirteenth annual report of the International Tribunal for the Former Yugoslavia?

It was so decided.

The President: I now call on Mr. Erik Møse, President of the International Criminal Tribunal for Rwanda.

Mr. Møse: It is a great honour to address the members of the General Assembly in order to present the eleventh annual report of the International Criminal Tribunal for Rwanda (ICTR) (see A/61/265).

When the tenth report was presented to the Assembly, one year ago, 25 accused had received judgements. That number has now increased to 31. Of the six new judgements, three were delivered within the period under review, namely, from 1 July 2005 to 30 June 2006. Another three judgements were rendered in September 2006, following trials in the reporting period. One further case is presently at the stage of judgement-writing. To date, judgement has been rendered, or trials are ongoing, in respect of a total of 56 alleged leaders of the events in 1994. Let me briefly mention the six Trial Chamber judgements I have just referred to.

On 13 December 2005, Aloys Simba, who in 1994 was a retired military officer, was unanimously convicted of genocide and crimes against humanity, and sentenced to 25 years' imprisonment. On 13 April 2006, Paul Bisengimana, a *bourgmestre*, was sentenced to 15 years imprisonment, after having pleaded guilty

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to crimes against humanity. On 12 June 2006, Joseph Serugendo was convicted, also following a guilty plea for direct and public incitement to commit genocide and persecution. He was sentenced to six years imprisonment. His terminal illness and poor prognosis were taken into account as a significant mitigating factor. Mr. Serugendo passed away in hospital on 22 August 2006. Mr. Bisengimana and Mr. Serugendo bring the total number of accused who have pleaded guilty before the ICTR to six. It cannot be excluded that that number may increase further.

I shall now turn to the three judgements that were rendered in September. Jean Mpambara, a *bourgmestre*, was acquitted of all charges against him on 12 September 2006. On the same day, Tharcisse Muvunyi, commander of the École sous-officiers, was convicted of genocide, direct and public incitement to commit genocide and crimes against humanity. He was sentenced to 25 years of imprisonment. On 20 September 2006, André Rwamakuba, who was the Rwandan Minister of Primary and Secondary Education, was acquitted of all charges against him. The judgments in the Mpambara and Rwamakuba trials bring the number of acquitted persons at the ICTR to five.

The ICTR Appeals Chamber delivered one appeal judgement in respect of one accused during the period under review. Two further judgements were rendered immediately after the reporting period, in respect of four other accused. The Appeals Chamber also delivered a number of significant interlocutory appeals during the reporting period or immediately thereafter.

Let me turn to the nine trials that are in progress, involving 25 accused. Of those cases, our five multi-accused trials continue to represent our main challenge, because of their volume and complexity and, therefore, the time needed to complete them. It is therefore important to note that three of them are at an advanced stage.

The *Military I* case involves four alleged senior military leaders in the Rwandan Armed Forces in 1994. The trial is scheduled to conclude in 2006. The *Butare* trial is the largest multi-accused case before the Tribunal. It has progressed favourably, with the defence case of the third of the six accused drawing to a close. In the *Government* trial, which involves four Government ministers, the defence case commenced on 1 November 2005, and is progressing well. In the two other multi-accused trials, the Prosecution is presenting its evidence. The *Military II* trial, which involves four accused, is almost at the end of the prosecution case. In the complex *Karemera et al.* case, which also involves four accused, the prosecution case is well under way. The progress made in the Tribunal's multi-accused trials represents significant steps in the implementation of the ICTR completion strategy.

Developments in the single-accused cases have also been encouraging. During the period under review, the ICTR commenced three new trials involving three accused. I have already mentioned the *Mpambara* trial, which started on 19 September 2005 and in which judgement was rendered last month. In the *Karera* trial, which began on 9 January 2006, closing arguments will be heard in November this year. The *Zigiranyirazo* trial started on 3 October 2005, and the defence case will commence soon.

Another welcome development is that, since the submission of the annual report, two new single-accused trials have started. The *Bikindi* and the *Nchamihigo* cases began on 18 and 25 September 2006, respectively. A third new single-accused case is scheduled to commence in November this year.

In addition to the 56 persons with ongoing or completed trials, 12 detainees are awaiting the commencement of their cases. One trial will start in November of this year, and another in January 2007. The remaining cases will commence as soon as trial capacity allows.

On that basis, I am pleased to confirm that the ICTR is on schedule to complete cases involving between 65 and 70 accused by the end of 2008, as envisaged in our completion strategy. In order to achieve that aim, continuity is of the essence. Earlier this year, the ICTR therefore requested that the term of office of the permanent judges be extended to the end of 2008, instead of proceeding with elections. That was supported by the Secretary-General. The ICTR is very grateful to the General Assembly, which on 28 June 2006 endorsed that recommendation.

More recently, the ICTR requested a similar extension of the term of office of the ad litem judges. The purpose is the same: to provide the Tribunal with the continuity, stability and certainty necessary for the efficient and effective planning of trials. In his letter of 2 October 2006 to the President of the General Assembly, the Secretary-General requested

that the Assembly approve the extension of the term of office of all ad litem judges until the end of 2008. Approval is also requested to allow nine of the ad litem judges to serve beyond the three-year cumulative period provided for under article 12 *ter* (2) of the Statute.

The members of the General Assembly may wish to take into consideration that the cumulative three-year period for two of the judges expires on 27 October 2006. Approval of that general request before that date would avert the need to authorize individual judges to continue to serve in trials to which they are currently assigned. Allow me, in that connection, to express our appreciation to the Assembly for having, on 29 August 2006, authorized one of the judges to continue to serve for more than three years in relation to the *Butare* trial.

Another important element of the completion strategy is the Prosecutor's intention to transfer some ICTR indictees to national jurisdictions for trial. Eighteen indictees are at large. The ICTR will not be able to prosecute all those accused by December 2008, should they be found. The Prosecutor is presently focusing on some of them. It is essential that Member States assist and cooperate in the arrest and transfer of accused who remain at large. One particularly well-known indictee is Félicien Kabuga. In view of the ICTR completion strategy, it is important that he be arrested and transferred to Arusha as soon as possible, in order to determine his guilt or innocence.

In order to prevent impunity, Member States are encouraged to be receptive to discussions concerning the possible transfer of some trials to their respective jurisdictions. The Prosecutor has been in contact with several countries. The decision as to whether a transfer shall take place is the responsibility of the Trial Chambers. A decision of principle was made in the *Bagaragaza* case, in which a Trial Chamber and the Appeals Chamber clarified the scope of the jurisdiction required in order for States to prosecute ICTR cases at the national level.

In connection with State cooperation, I would also like to recall that only one of the five acquitted persons has found a country of residence. The other four are under the protection of the Tribunal in Arusha. The situation is particularly serious for André Ntagerura and Emmanuel Bagambiki, who were acquitted by the Trial Chamber on 25 February 2004 — more than two and a half years ago. The Appeals Chamber confirmed their acquittal in July 2006. The Tribunal has, without success, made many attempts to find a country for them. On behalf of the Tribunal, I appeal to Member States to receive acquitted persons in their territories.

During the reporting period, Rwanda continued to cooperate with the ICTR by facilitating the travel of witnesses and by providing documents for use at trial, both for the prosecution and for the defence. It is important that requests in this field be dealt with expeditiously and in a flexible way. The Tribunal expects this cooperation to continue, too, if there should be issues in relation to which there may be differences of opinion between Kigali and Arusha. Some recent problems have been solved.

The Registry has continued to support the judicial process by servicing the other branches of the Tribunal. I refer to the annual report for details, but let me stress the important work done by all sections, including the various units within the Court Management Section, the Witness Protection Section, the Language Services Section, the Defence Counsel Section and the Security Section. Let me further emphasize that the important work of the defence teams is greatly appreciated as a cornerstone in our judicial proceedings.

The ICTR outreach programme, which includes our Information Centre in Kigali, judicial visits to the ICTR and capacity-building for members of the Rwandan judiciary and universities, has continued to grow. An important part of the programme is the training of Rwandan jurists, advocates and human rights practitioners.

I hope that I have conveyed an overview of the activities in a very active Tribunal. This week, about 20 accused will be brought from the detention facilities to our four court rooms every day. The ICTR is working at full speed.

On behalf of the Tribunal, let me conclude by expressing our deep appreciation to the General Assembly and the Secretary-General for their continued support of the ICTR.

The President: I call on Mr. Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia.

Mr. Pocar: I am greatly honoured to address the Assembly today as President of the International Criminal Tribunal for the Former Yugoslavia and

present to the Assembly the thirteenth annual report of the International Tribunal. This is my first report to the Assembly, as I took office as President on 17 November 2005. Before I highlight key aspects of the report and update the Assembly on some of the work of the Tribunal subsequent to the report, I would like to thank the members of the Assembly for the crucial support they have given to the historic work of the Tribunal since its inception. It is only because of their assistance and ongoing commitment that the Tribunal has been able to have such a fundamental impact upon the development and enforcement of international criminal justice, to advance the rule of law in national jurisdictions in the former Yugoslavia and to contribute to lasting peace and stability in the region.

By way of overview, since the report of my predecessor last October, the Tribunal has gone through a period of significant change and unprecedented challenges. Nevertheless, the Tribunal has pushed forward a number of innovative reforms and adopted concrete measures to increase the efficient disposal of trials and appeals, without sacrificing due process. As a result, at one point this year the Tribunal was able to try, for the first time in its history, an unprecedented number of 25 accused in six simultaneous trials. This is due to the fact that three large, multi-accused trials involving 21 accused — namely, Prlic and others, concerning crimes committed in Bosnia; Milutinovic and others, concerning crimes committed in Kosovo; and Popovic and others concerning crimes committed in Srebrenica — commenced in April and July 2006, at least six months earlier than originally planned, allowing for them to be able to finish in 2008.

Furthermore, the Tribunal's efforts to speed up proceedings have resulted in a caseload that is diminishing at an increasing rate. To date, cases against 97 accused, out of a total of 161 indicted, have been finally closed. While proceedings against 64 accused remain to be completed, of that number, 15 have already been tried and are at the appeals stage, 24 are currently on trial and only 15 are in the pretrial stage. Four are pending Rule 11 bis motions for referral, and the remaining six accused are still at large.

By the end of this year, the Tribunal is scheduled to close proceedings against two more accused with the issuance of two appeals judgements, resulting in a total of eight proceedings being closed on appeal in the calendar year. This marks the most productive year in the history of the Appeals Chamber. In the first quarter of 2007, the Tribunal will finish trials against four accused and close proceedings against four accused on appeal. At the current rate, all trials of accused now in the custody of the Tribunal are scheduled to be completed no later than 2009.

I would like to add, however, that while this projected date for the completion of trials is a noteworthy achievement, the Tribunal is not content to accept that date as final. It is constantly looking for new, creative ways to complete trials even earlier than planned, while upholding due process norms. We intend to work harder than ever to ensure that proceedings against the accused will be completed as soon as possible.

I wish to underline that efficient completion of the work of the Tribunal is not only a matter of meeting completion strategy target dates. It is also a matter of respecting fundamental human rights norms. Because of the increased pace of proceedings over the past year, the rights of the accused to be tried expeditiously, and to not be held in pretrial detention for unduly lengthy periods of time, are respected more effectively.

I now turn to summarize specific aspects of the work of the Tribunal during the reporting period, beginning first with Chambers. The Trial Chambers issued 447 decisions on pretrial motions, heard two cases of contempt and rendered judgments in four cases. The Tribunal's Appeals Chamber rendered 112 pre-appeal decisions and orders, 32 decisions on interlocutory appeals, four judgements and one decision on reconsideration of a judgement. Furthermore, Chambers issued five rule 11 bis referral decisions involving the transfer of nine low- to mid-level accused to national jurisdictions in the region as part of the ongoing policy to focus on the prosecution of the most senior accused. All but one of these decisions were also considered on appeal.

In addition to their caseload, judges of the Tribunal were occupied with a number of extraordinary plenaries, which I convened for the sole purpose of implementing internal reforms for increasing the efficiency of Tribunal proceedings without sacrificing due process. These plenaries were assisted by the reports of two working groups of judges, who were tasked with examining existing practices and the Rules

of Procedure and Evidence with a view to offering concrete proposals for improving them.

The working group on speeding up appeals completed its report and presented a package of recommended amendments to the Rules, which were unanimously adopted by the judges in a plenary held in November 2005. These amendments have resulted in shortening the time limits for the filing of appeals, avoiding repetitious filings and expediting the disposal of appeals by expanding the use of written, as opposed to oral, submissions. Details of these amendments are to be found in report, to which I will refer.

The working group on speeding up trials also completed its comprehensive report detailing measures for increasing the efficiency of the Tribunal's trials. The working group's proposals focused on ways judges can make a fundamental shift in their conduct of trials, away from a party-driven process to a judicially controlled process, with only minimal amendments to the existing Rules. Again, details of these measures are to be found in the Tribunal's fifth completion strategy report to the Security Council (S/2006/353). However, I will highlight some of these significant measures for you.

In April 2006, judges of the Tribunal adopted the recommendations of the working group on pretrial proceedings and, as a result, pretrial judges are playing a much more active role in preparing cases for trial and in ensuring that cases are trial-ready upon the vacancy of courtrooms. In the conduct of pretrial conferences, pretrial judges are insisting on the establishment of workplans that set strict deadlines on the parties' disclosure of material and reaching agreement on facts. The pretrial judges are also requiring the Prosecution to provide greater details on its trial strategy and obliging both parties to file their pretrial briefs and witness and exhibit lists well before the start of their cases.

Furthermore, a new policy has been adopted whereby, wherever possible, cases are assigned at the pretrial stage to a judge who is expected to be one of the judges who will hear the case at trial. As a result, not only are pretrial judges taking increased measures to efficiently prepare a case for trial, but Trial Chambers have also been encouraged to require the Prosecution to focus its case at trial by limiting the presentation of evidence and fixing the number of crimes sites or incidents. The policy of pretrial judges sitting on trial was applied to the two multi-accused cases of Prlic et al. and Milutinovic et al, and resulted in greater efficiency in both.

Following the working group's recommendations for enhancing the efficiency of trials, in addition to pretrial proceedings, the judges of the Tribunal were recently convened in another extraordinary plenary in September 2006 to adopt amendments to the Rules incorporating those proposals. That plenary led to the adoption by the judges of two new provisions, rules 92 ter and 92 quater. In essence, the amendments have increased the ability of Trial Chambers to consider written statements and transcripts of witnesses in lieu of oral testimony, even where that evidence goes to the acts and conducts of an accused. Trial Chambers are now empowered to decide whether a witness should appear for cross-examination where written statements or transcripts have been used, and whether to allow the admission of written evidence of witnesses who are not available to attend as witnesses at the Tribunal.

The judges have also taken action to expedite trial proceedings by placing limits upon the Prosecution's cases, such as by narrowing the breadth and scope of the Prosecutor's indictments. Accordingly, in May 2006, the judges adopted an amendment to rule 73 bis to authorize Trial Chambers to either invite or direct the Prosecutor to select those counts in the indictment on which to proceed. The judges of the Tribunal considered that this rule amendment was necessary in order to ensure respect for an accused's right to a fair and expeditious trial and to prevent unduly lengthy periods of pretrial detention. Moreover, if the Tribunal is to come close to meeting completion strategy targets, it will be necessary for the Prosecution's case to be limited. Regrettably, the Prosecutor strongly opposed this amendment, even though focusing the scope of indictments is part of responsible trial management, is commonly used in national jurisdictions and does not impact upon prosecutorial prerogatives.

Recognizing that it is critical that judges and the Prosecution work together in order to complete the work of the Tribunal, Trial Chambers have worked to build consensus with the Prosecutor by finding other ways to focus her cases, apart from mandatorily directing her to narrow the scope of her indictments. For example, strict time limits have been set for the presentation of the Prosecution's cases in Prlic and Milutinovic, resulting in the reduction of the

anticipated length of trial by at least one third and one half, respectively. In addition, in these cases, as well as in Popovic et al, the Trial Chambers have placed restrictions on the amount of evidence that may be adduced in relation to some of the counts in the indictments.

In the Seselj case, while the Trial Chamber is examining the indictment for purposes of reducing its scope by one third, it has invited the Prosecutor to make proposals for that purpose.

As a final note with regard to the judicial work of the Tribunal during this reporting period, I draw the attention of the Assembly to Security Council resolution 1660 (2006), adopted on 28 February 2006. That resolution allows the Secretary-General to appoint ad litem reserve judges to the three larger trials of multi-accused. These judges are available to replace a judge who is unable to continue sitting on a case and, thus, to prevent the delay that would be caused by having to restart the trial. Moreover, these reserve judges are being assigned to other cases to hear them as ad litem judges proper or to do pretrial work. Their contribution to the efficient work of the Tribunal cannot be overstated.

Let me now turn to the activity of the Office of the Prosecutor over the past year. In accordance with the Tribunal's completion strategy, there were no new indictments — except for contempt of court — issued by the Office of the Prosecutor during the reporting period. The Prosecutor focused her efforts on obtaining cooperation from relevant Governments and international institutions to secure the arrest or surrender of the remaining fugitives. Notably, in the second half of 2005, Milan Lukic, Dragan Zelenovic and Ante Gotovina were arrested and subsequently transferred to the Tribunal.

However, I must emphasize that it is of grave concern to the Tribunal that six high-level fugitives — in particular, Radovan Karadzic and Ratko Mladic — remain at large. The Tribunal must not close its doors before those accused are brought to justice. Otherwise, the Tribunal's message and legacy that the international community will not tolerate serious violations of international humanitarian law will be thwarted.

I stress that the capacity of the Tribunal to complete its mandate in accordance with the target dates of the completion strategy hinges significantly upon the immediate cooperation of all States — specifically those in the region — in apprehending these fugitives to stand trial. Regrettably, the authorities of Serbia have failed to make any progress in locating, arresting and surrendering Ratko Mladic to the International Tribunal, despite a number of promises made and the passing of several deadlines. Likewise, no progress towards locating Radovan Karadzic has been made by the Republika Srpska.

Another issue of great importance to the Tribunal with respect to cooperation with States in the former Yugoslavia concerns the furtherance of the rule of law in national courts in the region. In the reporting period, the Tribunal increased its involvement in the region through working visits and training programmes to enhance the judicial and prosecutorial capacity of national jurisdictions and the profile of the Tribunal's work. I firmly believe that that activity is a key component of the mission and the legacy of the Tribunal. It is these courts that will continue the work of the Tribunal in trying perpetrators of war crimes, crimes against humanity and genocide. Furthermore, it is crucial, for reasons of stability and reconciliation in the region, that these national trials uphold the highest standards of due process such that justice is done and is seen to be done.

I would also note that, at present, development of the rule of law in the former Yugoslavia is also necessary for reasons related to the Tribunal's completion strategy. If fair trials for low- to mid-level accused transferred to the region under Rule 11 bis are not guaranteed, they may be referred back to stand trial before the Tribunal under the Rules.

Last, but certainly not least, the Registry of the International Tribunal continued to play a crucial role at the Tribunal by providing administrative and judicial support. Moreover, the Registry worked successfully to enhance public interest in the Tribunal by carrying out a diverse range of public relations activities in the former Yugoslavia via the Outreach Programme, producing a number of publications in the languages of the region and implementing and participating in conferences, round tables and workshops. The Outreach Programme also brought numerous persons and groups from the region to the seat of the Tribunal, frequently through the support and cooperation of Member States.

The Registry Advisory Section pursued the action plan of the Registrar to obtain 10 more witness-

relocation and enforcement-of-sentence agreements, and assisted cooperation with domestic courts in the former Yugoslavia regarding the transfer of cases. The Advisory Section continued its active work on Tribunal legacy issues, which includes ongoing legal responsibilities and the disposition and management of the Tribunal's archives. It is anticipated that the entirety of the Tribunal's public case law will be available online on the Judicial Database by the end of 2006.

Let me add that the Registry continued to facilitate the rights of defendants through a diverse and competent force of defence counsel, defence assistants and experts. Cooperation and coordination with defence counsel has improved, and the Registry is seeing the benefits of a tightened regime of qualification requirements.

During the reporting period, the United Nations Detention Unit was operating at a high activity level, especially following the deaths of Mr. Milan Babic, a detained witness previously convicted by the ICTY who committed suicide on 5 March 2006, and of Mr. Slobodan Milosevic, who died of natural causes on 11 March 2006. An audit conducted thereafter by representatives of the Swedish Government found the quality of care and security to be generally positive in the Unit, but also made a number of recommendations, which are currently being implemented by a working group of the Tribunal.

In conclusion, the thirteenth annual report to the Assembly demonstrates that, notwithstanding the significant challenges encountered over the past year, the International Tribunal pressed full speed ahead with its judicial and prosecutorial work, resulting in a very productive period in the Tribunal's history. I stress that, as demonstrated by the concrete measures taken during the reporting period, the Tribunal is absolutely committed to doing all within its power to meet its obligations under the completion strategy, while, of course, upholding norms of due process. In looking to the future, the International Tribunal will make every effort to develop additional tools to improve the efficiency of its trial and appeals proceedings. In addition, it will intensify the ongoing efforts to contribute towards the building of judicial and prosecutorial capacity in the former Yugoslavia.

Once again, I emphasize that the noteworthy achievements of the International Tribunal thus far have been possible because of the steadfast support of members of the General Assembly. Through their assistance, the Tribunal has demonstrated to the world that international criminal justice that upholds due-process norms is possible. The existence of the Tribunal and its success in prosecuting war crimes, crimes against humanity and genocide over the past 13 years have sent a clear message that the international community is committed to preventing such crimes from going unpunished. Furthermore, the experience and jurisprudence of the Tribunal have paved the way for the prosecution of serious violations of international humanitarian law in jurisdictions around the globe.

I cannot stress enough how important the Assembly's continued support will be in the last few years of the Tribunal's mandate. We still have much work to do. I call upon all Member States to assist us in our commitment to seeing that work through to the end, which includes the trials of our six remaining high-level accused, and in particular Mladic and Karadzic. That is not only necessary to ensure that the historic work of the Tribunal is not undermined by a premature closing of its doors. More important, it is essential for the cause of international justice and the continued fight against impunity in the interests of promoting international peace and security.

I thank the Assembly for the attention and time it has given me today.

Ms. Lintonen (Finland): I have the honour to speak on behalf of the European Union (EU). The acceding countries Bulgaria and Romania, the candidate countries Turkey, Croatia and The former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina and Montenegro, and the European Free Trade Association country Iceland, member of the European Economic Area, as well as Ukraine and Moldova, align themselves with this statement.

Let me express the European Union's continuous and strong support for both ad hoc Tribunals and their important work in ending impunity, thereby contributing to peace as well as fostering reconciliation and strengthening the rule of law in the regions of their respective jurisdictions. While carrying out their mandates to bring justice and effectively prosecute perpetrators of the most severe international crimes,

the Tribunals have decisively contributed to the development of international law and legal practice. The Tribunals have built up extensive jurisprudence in international criminal law, including several ground-breaking precedents.

It has been established in the case law of the International Criminal Tribunal for Rwanda (ICTR) that acts of rape and sexual violence committed with the intent to destroy a protected group can as such constitute genocide. In addition, the line between speech that incites genocide or persecution and speech that is protected by the freedom of expression has been established. The EU commends those developments. However, there is still work to be done before we can close the chapter on these pioneering Tribunals.

The EU wishes to warmly thank the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the ICTR, Judges Pocar and Møse, for presenting their respective reports on the work of the Tribunals. The reporting period has been very productive for both Tribunals. The EU is pleased to note the Tribunals' efforts to use their capacity to the fullest. We also note that the Tribunals are making progress on their completion strategies. The EU urges them to continue to make their proceedings even more efficient and expeditious. We recognize, however, that efforts to enhance the administration of justice should never be made at the expense of due process and the rights of the accused and of the victims.

The decisions by the Security Council to allow ICTY ad litem judges to serve as reserve judges, together with the decisions by the Council and the General Assembly to extend the terms of office of the ICTR's permanent judges, were very well reasoned. The European Union also supports the extension of the terms of office of all 18 ad litem judges of the ICTR until the end of 2008, as requested by the President of the Tribunal and endorsed by the Secretary-General in his recent letters to the Presidents of the General Assembly and the Security Council, respectively.

The Tribunals cannot succeed without the firm commitment of States to cooperate with them in accordance with their legal obligations. It is vital that that commitment be strengthened and continued as the Tribunals approach the final stages of their work.

The EU notes with satisfaction the arrest of Mr. Ante Gotovina, in December 2005, and his transfer to The Hague, as well as the transfer of Mr. Dragan Zelenovic to The Hague in June. However, the mandates of the Tribunals will not be fully implemented unless the remaining high-level fugitives — in particular, Radovan Karadzic, Ratko Mladic and Félicien Kabuga — are brought before the ICTY and ICTR, as appropriate. The EU therefore reiterates its strong call upon all Member States to live up to their international obligations by arresting and transferring the accused at large to The Hague or to Arusha without delay. Continuing delays in transfers also puts in jeopardy the timely implementation of the completion strategies.

The international community must not send the message that the perpetrators of the most serious international crimes of genocide, war crimes and crimes against humanity can go unpunished by virtue of the passage of time. Impunity is not an option. The full cooperation of Western Balkan countries with the ICTY is a precondition for rapprochement with the European Union.

Cooperation with the Tribunals goes beyond transfer of the accused. Member States are needed to relocate witnesses and sentenced persons, as well as individuals who have been acquitted. Situations in which witnesses and acquitted persons wait in safe houses for months before being transferred are not acceptable.

More Member States are also needed to accept convicted persons to serve sentences in their prisons, as dozens of cases requiring the enforcement of judgements are still foreseen in respect of the ICTY alone. The EU therefore strongly encourages States to conclude agreements with the Tribunals relating to the relocation of witnesses and to the enforcement of sentences.

The European Union also strongly urges the United Nations Interim Administration Mission in Kosovo (UNMIK) to fully cooperate with the Office of the Prosecutor of the ICTY. It is of the utmost importance that the Organization's own bodies lead the way in this respect.

The EU welcomes the fact that the ICTY is referring an increasing number of cases involving intermediate and lower-ranking accused to competent national jurisdictions, and expresses the hope that the ICTR will soon be in a position to do likewise. The Tribunals should, indeed, according to their mandates, concentrate on prosecuting and adjudicating on senior

leaders most responsible for crimes under the Tribunals' jurisdiction.

The EU agrees that the referrals are important for the successful implementation of the completion strategies, as well as for the legacy of the Tribunals. The EU notes, however, that the trials need to be conducted in full compliance with international standards of due process. The Tribunals will play a vital role in monitoring to ensure that that is the case, and they should be prepared to recall cases if it is not.

The EU is very conscious that a number of legacy issues involving the Tribunals will need to be addressed. We look forward to seeing the proposals of the Secretariat as soon as possible.

The EU welcomes the Tribunals' strengthened outreach activities and their cooperation with local courts, including the provision of training to local judges. The EU encourages the Tribunals to continue their efforts in this respect. The EU takes careful note of the call by the Tribunals for more support from Member States in building the capacity of national judicial institutions. It is money well invested for the international community, as it enables the States in question not only to adjudicate the cases, but to also carry on the legacy of the Tribunals.

Mr. Adsett (Canada) (*spoke in French*): I have the honour to speak on behalf of Canada, Australia and New Zealand.

I should like to begin by paying tribute to the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). The establishment of those Tribunals was a milestone in the international community's efforts to replace the culture of impunity, which was the norm for most of the twentieth century, with a culture of accountability for war crimes, crimes against humanity and genocide. Our countries strongly support both Tribunals, and commend them for having completed proceedings against 112 accused to date. That is a historic achievement.

Both Tribunals are in the process of implementing their completion strategies. Canada, Australia and New Zealand will monitor their progress closely. We welcome the steps that both Tribunals have taken in the past year to improve the efficiency of their proceedings, including streamlining their judicial processes and focusing on those who bearing the greatest responsibility for the most serious international crimes.

(*spoke in English*)

The completion strategies of the ICTY and the ICTR depend on the ability of the Tribunals themselves to remain focused on meeting the important deadlines therein and on the arrest by States of indictees who remain at large. The arrest and transfer of these individuals, including Radovan Karadzic, Ratko Mladic and Félicien Kabuga, must remain a top priority for the Tribunals and, indeed, for the international community as a whole. We call on all States, particularly those States where fugitives are believed to be located, substantially to increase their efforts to arrest indictees.

As the ICTY and ICTR continue to wind down their work, there is a clear need for a coordinated and standardized plan of action to address issues that will arise after the physical closure of the Tribunals, such as where appeals may be heard should new evidence be found, the long-term retention and protection of evidence, the execution of outstanding arrest warrants, ongoing witness protection and the secure archiving of case documents. These issues must be dealt with properly in order to secure the legacies of the Tribunals and to ensure the transition of States from conflict to peace.

With a view to prompting strategic thinking on these residual issues, in early 2007 Canada will sponsor a small workshop, which we hope will provide an opportunity for further discussion of these issues among experts.

Canada, Australia and New Zealand will continue to assist the ICTY and the ICTR in carrying out their mandates successfully and in holding accountable those responsible for the worst crimes known to humankind. We call on all States likewise to continue to cooperate with the Tribunals as they move towards completing their mandates. Bringing perpetrators of serious international crimes to justice is an important element of long-term peace and reconciliation in any conflict.

Mr. Nsengimana (Rwanda): We would like to thank you, Madam President, for having convened this important meeting of the General Assembly to discuss the reports of the International Criminal Tribunal for Rwanda (ICTR) (A/61/265) and the International

Criminal Tribunal for the Former Yugoslavia (ICTY) (A/61/271).

My delegation wishes to express its thanks to the ICTR President, Judge Erik Møse, for his statement. We wish to commend the Tribunal Chambers, the prosecution and the Registry for their continued hard work and commitment to the successful implementation of the completion strategies in accordance with Security Council resolution 1534 (2004).

The Government of Rwanda believes that, as the time set by the Security Council for the International Criminal Tribunal for Rwanda to complete its work draws closer, it becomes more imperative than ever that its work be conducted with the highest standards of integrity and veracity, as well as with efficiency.

The Government of Rwanda has in the past expressed the serious concern that the ICTR has on its staff, including on defence teams, individuals who are themselves accused of having committed serious crimes during the 1994 genocide in Rwanda. At the end of September, my Government brought it to the attention of the Security Council that 15 such individuals were employed by the ICTR. Ten of those suspects have since resigned. We take this issue very seriously and look forward to the expeditious resolution of this issue by the Tribunal, including by making public the report of the independent investigation on 10 of these suspects and the arrest and prosecution of those suspects.

Rwanda believes that as the Tribunal works towards completing its work in the next two years in accordance with the completion strategy, there are four particular areas where significant progress is most urgent.

The first concerns fugitives still at large. The most serious perpetrators of the genocide, its planners and authors should not be allowed to evade justice. The Tribunal's completion strategy should not be seen as an exit strategy for the obligations of the international community to bring all the suspects of the crime of genocide to trial at the ICTR or in Rwanda. We would welcome appropriate measures that would ensure that all the accused are brought to justice, even after the Tribunal's mandate has expired. My delegation has repeatedly expressed Rwanda's commitment, which I repeat here today, to work with Governments around the world to bring these suspects to justice. We must not allow notorious suspects such as Félicien Kabuga and Augustine Ngirabatware to evade justice. If they do, it would be an extremely sad indictment of us all and would send the wrong signal about the commitment of the international community to prevent genocide by combating impunity. We welcome recent efforts by the Prosecution and the international community to meet with Kenyan authorities to discuss the matter. We look forward to the arrest and transfer for trial of Mr. Kabuga in the near future. We also call upon all States to cooperate with the Tribunal to track, apprehend and transfer indictees still at large.

The second area of concern involves transfer of cases. It is a widely accepted principle that trials, especially for crimes as serious as genocide, should take place as close as possible to where the crimes were committed. We welcomed Prosecutor Jallow's reiteration to the Security Council in June that Rwanda continues to be the major focus for referrals. In this connection, it is our view that the trials targeted for transfer should take place in Rwanda. This would contribute to our own efforts to eradicate the culture of impunity and promote reconciliation in Rwanda, as our people would be first-hand witnesses to justice being done. The Rwanda Government is working with the Tribunal, particularly the prosecution, to prepare for these transfers, including by addressing several legal and procedural issues. We are also addressing the issue of the death penalty.

The Government of Rwanda has made significant progress, despite its limited means, in developing the capacity of the judiciary. We appeal to the international community to support the preparations for the transfer of trials to Rwanda and also to provide financial support for the trials once they begin.

The third area requiring significant progress is the transfer of convicts. The Rwanda Government has consistently stated that all ICTR convicts should serve sentences in Rwanda, where the crimes were committed. Once again, we believe that this is essential for justice and reconciliation processes in Rwanda, which were the main reasons why the ICTR was established in the first place. The initial concern about the administration of sentences in Rwanda was the lack of a detention facility that meets international standards. However, a detention facility was built more than two years ago and was inspected by ICTR officials, who certified that it meets those international standards and signed a memorandum of understanding

to that effect. Despite this, there continues to be delay in effecting transfers. It is unclear to us why this is the case. We, therefore, appeal for these transfers to be carried out expeditiously.

The final area requiring significant progress is the transfer of documents and materials. As we consider the legacy of the Tribunal and its effect on Rwanda, we believe that the completion strategy should incorporate the transfer of all court documents and materials to Rwanda. We believe that as the ICTR completes its work, the United Nations and the international community should establish a genocide prevention and educational centre to serve not only in memory of the Genocide's one million victims but also to serve as a centre of research and learning about lessons learned from the genocide in Rwanda and as a centre to promote justice, reconciliation and human rights.

The Rwanda Government is open to discussions with the United Nations and Member States on how best to take this proposal forward. However, we should be cognizant of the need to act quickly, given the limited time left before the Tribunal completes its work.

We would like to conclude by expressing our profound appreciation to the international community for its continued support of the Tribunal through both assessed and voluntary contributions. As we enter the last leg, we urge you to continue your commitment to ensuring that the Tribunal is adequately resourced to conduct its work efficiently and effectively. We also thank the Tribunal President and Prosecutor and their respective teams for their work in ensuring the implementation of the completion strategy.

Ms. Skaare (Norway): Let me start by expressing Norway's continued support and full recognition of the achievements and the high standards of the International Criminal Tribunals for Rwanda and the Former Yugoslavia, as reflected in the Tribunals' well-reasoned judgements and in the annual reports before us in documents A/61/265 and A/61/271 respectively.

We would like to thank the Presidents of the Tribunals, Judges Pocar and Møse for their detailed and informative reports, which reflect the progress made during the period under review.

The Tribunals have made a crucial contribution to international criminal law and developed a jurisprudence that has set standards for national, as well as other international, tribunals. By effectively prosecuting the perpetrators of the most severe international crimes, the Tribunals have not only contributed to justice for victims in Rwanda and the former Yugoslavia, but have also made significant achievements in the fight against impunity for mass atrocities in general.

Norway is pleased to note that both Tribunals are fully committed to meeting the completion strategy targets approved by the Security Council. We commend the measures taken to increase the efficiency of the Tribunals, and we encourage continuing this positive development, while at the same time ensuring that due process and fundamental legal principles are realized.

According to the report of the Rwanda Tribunal, the revised completion strategy that was submitted to the Security Council on 29 May 2006 confirms that the Tribunal is on course to complete trials involving 65 to 70 persons by 2008, depending on progress in present and future cases.

The Rwanda Tribunal has delivered three judgements in major trials during the review period, bringing the total to 22 judgements involving 28 accused since 1997. In addition, trials involving 27 accused are in progress, thus bringing the number of accused whose trials have been completed or are in progress to 55. The Appeals Chamber delivered an appeal judgement during the period under review.

The Yugoslavia Tribunal has continued to operate at full capacity. Six trials have been running simultaneously, and three trials with multiple accused, involving 21 accused persons, commenced earlier than anticipated. We welcome the decision by the Security Council to allow the Yugoslavia Tribunal ad litem judges to serve as reserve judges, as well as the decision by the Council and the General Assembly to extend the term of office for the permanent judges of the Rwanda Tribunal. Furthermore, we support the extension of the terms of office for all 18 ad litem judges of that Tribunal until the end of 2008.

It is critical to the success of both Tribunals that all States are committed to the fulfilment of their mandates and provide concrete and effective cooperation, in accordance with their legal obligations.

We appeal to all States to demonstrate, not only in words, but also in practice, their fullest cooperation with the Tribunals. As the completion of the work of

the Tribunals approaches, unreserved support on the part of States is crucial. It is of the outmost importance that all States honour their financial commitments and pay their assessed contributions on time. Furthermore, Member States must fulfil their obligations to arrest and transfer fugitives to the Tribunals without delay. There can be no doubt that the failure to arrest Radovan Karadic and Ratko Mladic, as well as Félicien Kabuga, who has been indicted by the ICTR, remains a serious concern. We urge the involved States to cooperate fully with the Tribunals. It is not acceptable that perpetrators of serious international crimes are able to avoid legal proceedings. The main mission of the Tribunals can not be fulfilled unless the highest-ranking indictees are brought to justice.

Norway has an agreement regarding enforcement of sentences with the Yugoslavia Tribunal and cooperates closely in several fields with the Rwanda Tribunal. The process is in urgent need of States that are willing to enter into agreements regarding enforcement of judgements. It is unreasonable that, today, only a few Member States shoulder this important responsibility.

We strongly support the Tribunals' external activities and their involvement and cooperation with local judiciaries. All States must honour their international obligation to cooperate, with regard to requests for full and effective assistance to the Tribunals. This applies with regard to witnesses, to giving financial and material support, as well as to providing practical assistance in the enforcement of sentences. All States should prove their commitment to the Tribunals by their active and concrete action.

Norway will stand by its long-term commitment to the successful completion of the missions assigned to the two Tribunals by the Security Council.

Mrs. Mladineo (Croatia): Let me begin by welcoming the President of the International Criminal Tribunal for the former Yugoslavia (ICTY) and extending our thanks to him for presenting the thirteenth annual report.

While Croatia associates itself with the statement delivered earlier by Finland on behalf of the European Union (EU), I would like to offer a few further remarks on the ICTY. The report is factual and concise, testifying to the Tribunal's determination to meet its completion strategy targets. We are pleased to note that, under the new President's guidance, the process of internal reform continued along the lines set out in the Tribunal's fifth completion strategy report, thus significantly improving procedural efficiency. The Office of the Prosecutor, on the other hand, opened a new chapter by referring cases to national courts for the first time, two of them to Croatia.

The Tribunal's relevance in ending impunity and advancing the cause of justice remains undisputed. No less important is its role in helping to consolidate a national judiciary in the region to deal with war crimes. Referral of cases under rule 11 bis, which Croatia has long advocated, testifies to the advanced level of stability, confidence, commitment and inter-State cooperation in the administration of justice in war crimes prosecutions.

However, before we can claim that a full circle has been completed and justice properly served, it is imperative to arrest, surrender and try the remaining fugitives. This is the cornerstone of an exit strategy.

Cooperation remains crucial for completing the Tribunal's mandate. The Government of Croatia has made it clear that it takes this responsibility seriously. With the arrest of the accused Ante Gotovina in Spain last year, the last remaining issue in relations with the Tribunal has been resolved. We are pleased that the scope and quality of our cooperation is reflected in the Prosecutor's assessment of Croatia's efficient and professional cooperation.

However, our commitment does not stop at The Hague. We continue to believe that national courts have a critical role to play in de-politicizing war crimes. The establishment of individual criminal responsibility, on all levels and on all sides, is a prerequisite for stability, reconciliation and peace. This can be a challenge. I am pleased to say that a Special War Crimes Court in Croatia is engaged in a number of cases. An increasing number of investigations of crimes have been opened. The level of inter-State cooperation in these matters has also visibly intensified.

Later this morning we will hear the report on the work of the International Criminal Court (ICC). Let me just say that we are proud that this common endeavour, the ICC, continues to consolidate its presence in the international order. It has been rightly observed that the Court is rapidly becoming the centrepiece of the emerging system of international justice. Croatia salutes this shift of focus from ad hoc to permanent and

universal criminal justice. While we continue to support the work of the International Criminal Tribunal for the Former Yugoslavia in pursuing its exit strategy, we believe that a capable national judiciary, complemented by the ICC as our collective consciousness, remains the basis of the rule-based international order.

Mr. Jevremović (Serbia): Allow me to express my appreciation and thanks to Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), for his presentation of the ICTY's annual report (A/61/271) to the General Assembly.

The Government of Serbia has expressed its full determination and definite political commitment that all individuals indicted for the most serious violations of international law during the conflicts in the territory of the former Yugoslavia should be brought to justice, either through ICTY proceedings or through the domestic judiciary system. Rather than legal or political, that is first and foremost a moral necessity. In that sense, we hope in particular that cooperation with the Tribunal will bring that process to a successful conclusion.

Between the end of 2004 and today, the Government of the Republic of Serbia has made considerable efforts to apprehend and transfer to The Hague 16 indicted persons. However, some of them voluntarily surrendered themselves to the custody of the Tribunal. Most of those indictees are former high-ranking military and police officers. We consider that that process was carried out in partnership with the ICTY, which ensured the best results. The Government of Serbia is fully committed to continue in the same direction, and to fulfil its remaining international obligations in that respect.

In July of this year, the Government of the Republic of Serbia adopted an action plan for cooperation with the ICTY that will further facilitate that process. In the two months that the plan has been implemented, appropriate institutional mechanisms have been launched for the sole purpose of locating, arresting and transferring the indictee Ratko Mladic and other remaining fugitives. Apart from an obvious political dimension, the whole process is simply a matter of implementing law.

The Government of the Republic of Serbia has on many occasions stated that it is in the interest of Serbia to bring its cooperation with the ICTY to a successful conclusion as soon as possible. As far as the case of indictee Ratko Mladic is concerned, the Government of Serbia has stated that the hiding of Ratko Mladic is an act of dishonesty that challenges the administration of justice and directly threatens the national and State interests of Serbia. I would in particular like to emphasize that the Government of Serbia has done everything in its power to locate Ratko Mladic and transfer him to The Hague. No doubt, there is political will and determination to establish his whereabouts. This matter is therefore one of a technical nature. The individuals who have helped fugitive Mladic to evade arrest are currently under investigation or awaiting trials. In total, 11 suspects have been brought before courts and been sentenced as Mladic's accomplices. Despite those efforts, it has not yet been possible to locate Ratko Mladic. We remain determined to close this case, well aware of the moral and political damage to which Serbia is exposed.

I would like to take this opportunity to bring to the Assembly's attention our readiness to fully cooperate with the ICTY Prosecutor's Office vis-à-vis access to State archives and documents.

The Government of the Republic of Serbia has thus far granted waivers to testify as witnesses to more than 500 persons who are former members of the army, police or Government services. Serbia is providing effective assistance to the Office of the Prosecutor in locating, interviewing and taking testimony from witnesses as well as suspects. We have thus far provided the Office of the Prosecutor several thousand documents, including classified documents from the Supreme Defence Council, the Parliament, the Counter-intelligence Service and the Ministry of the Interior, among others. Furthermore, the National Council for Cooperation with the ICTY has granted general access to the State archives to investigators of the Office of the Prosecutor. The exchange of visits between top Belgrade and Hague officials has also become a regular practice.

The Republic of Serbia welcomes the Tribunal's efforts to expedite its work in order to meet the deadlines and conditions set out in Security Council resolutions 1503 (2003) and 1534 (2004). In that regard, the Republic of Serbia considers tracking down remaining indictees and bringing them to trial in the national jurisdiction to be a complementary process of crucial importance. Trials before the domestic courts

will contribute to the goals for which the ICTY was established, in 1993, as a high-level body of the United Nations.

It is for that reason that the Republic of Serbia reiterates its readiness to have its judicial authorities — including the Special Prosecutor's Office for War Crimes and the Department for War Crimes of the Belgrade District Court — process indicted individuals, including those cases that may be transferred from The Hague. However, despite the positive assessment of judicial proceedings by our domestic courts given by the Tribunal itself and some States, including permanent members of the Security Council, not a single case has thus far been transferred. Let me emphasize again that we firmly believe that mutual cooperation and trust will contribute to the effective administration of justice.

The new penal code of the Republic of Serbia, which was adopted in September 2005, more precisely set out command responsibility for serious violations of humanitarian law during armed conflict. Just recently, the law on witness protection was adopted as well. That legislation will further lay a firm foundation for processing war crimes.

Serbia welcomes the agreement between the Organization for Security and Cooperation in Europe (OSCE) and the ICTY that allows existing OSCE missions to Bosnia and Herzegovina, Croatia, Serbia and Montenegro to monitor the war crimes trials that have been transferred, or will be transferred, from the ICTY to the judiciaries of respective countries.

Prosecutors from Serbia, Montenegro, Croatia and Bosnia and Herzegovina have met several times in Belgrade and elsewhere to discuss further cooperation regarding the prosecution of war crimes. Relevant memorandums of understanding have also been signed.

We are grateful to the OSCE, the United Nations Development Programme, the Council of Europe and various countries for assisting Serbia in amending its criminal legislation to accord with ICTY standards and for training prosecutors and judges to deal with war crimes. We look forward to further cooperation in that field.

Finally, I would like to reiterate the firm position of the Government of Serbia that it will continue to take all steps within its power in order to locate the remaining indicted persons and, if they are hiding in Serbia, to transfer them to The Hague. The Republic of Serbia is resolved that all those who committed war crimes should stand trial, either by the ICTY or by domestic courts. The Government of Serbia shall continue to take all possible steps to fully honour its international commitments and bring its cooperation with the ICTY to a successful conclusion. We believe that the results achieved thus far are the best proof of that.

Mr. Chokhal (Nepal): My delegation thanks the Secretary-General for transmitting the reports on the activities of the two Tribunals during the past year. We would like to thank the Presidents of both the Tribunals for their presentations this morning.

Peace, justice and the rule of law are principal goals for humanity. The Security Council established the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) to bring peace and justice to those victims of indiscriminate murder and extermination, which were crimes against humanity. My delegation is confident that both the Tribunals will redouble their efforts to increase the efficiency and efficacy of their proceedings in their Trial Chambers and the Appeals Chamber.

We have noted that in recent years both Tribunals have attached priority to the implementation of the completion strategy as endorsed by the Security Council in its resolution 1503 (2003). A number of measures for developing the judicial capacity of national authorities in the former Yugoslavia and strengthening the ICTY's outreach activities will play an important role in this regard. We note that the Tribunals have undertaken internal and external reforms, action on diplomatic relations and other representation, submission of the ICTY's fifth report on the implementation of its completion strategy (S/2006/353) and judicial activity such as assigning cases to Chambers in a timely manner and the appointment of pre-appeal judges.

All the Tribunal organs, including their Registries and Prosecutors' Offices, should work together with a view to completing the mandates of the Tribunals effectively and efficiently. We consider that the assistance of Member States concerned can play a crucial role in strengthening the capacity of the Tribunals. The Tribunals should scrutinize their practices and procedures in search of ways to ensure

that they fulfil their mandates in the time frame of their completion strategies.

Nepal believes strongly in the principle that there must be no impunity for the most serious crimes of concern to the international community. Both the ICTR and the ICTY were established to hold individuals accountable for such crimes. Peace, justice and the rule of law are inextricably linked. We also believe that both Tribunals are making very important contributions towards reconciliation and peacebuilding in the countries they are serving.

Let me share how Nepal has also dealt with the principle of no impunity at the national level. Nepal is now a multiparty democratic country strictly following the principles of justice, the rule of law, human rights and fundamental freedoms. Following the successful people's movement last April, the Government of Nepal established a high-powered independent commission, under the chairmanship of a former Supreme Court justice, to carry out an investigation into violations of human rights and fundamental freedoms and the atrocities committed against the peaceful democratic movement in our country. The commission is currently working to fulfil its mandates to make recommendations for the necessary prosecution and punishments, bringing to justice the perpetrators of crimes aimed at the suppression of the peaceful people's movement. The Government is fully committed to taking necessary action on the recommendations of the commission. We believe that transitional justice for victims of crimes committed against civilians should be rendered with a view to ensuring lasting peace, stability and reconciliation in the country.

My delegation considers that principle of no impunity should be strictly respected and observed by all, and under all circumstances. The rule of law and justice should form the foundation of a democratic society. The United Nations should encourage and promote these principles in its work, as envisaged in its Charter.

Mr. Prasad (India): First of all, I would like to thank the Presidents of both Tribunals for their reports to the General Assembly.

International criminal law has assumed increased prominence with the creation of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and, later, the International Criminal Tribunal for Rwanda (ICTR). These were the first international criminal tribunals established since the Nuremberg and Tokyo tribunals of the Second World War. Because of the manner of their creation, they have faced a great number of political and legal challenges in establishing their legitimacy. In questioning the competence of the Security Council to establish these Tribunals, many legal scholars, after an extensive analysis of the traveaux préparatoires, came to the conclusion that it was not the intention of the drafters of the Charter to endow the Council with such competence. However, some scholars rely on other concepts to justify the attribution of legislative functions to the Council, namely the concepts of implied powers and subsequent practice.

The concept of implied powers is derived from the idea that organizations or their organs must have the power and competence that are necessary or essential for the execution of their functions. In the 1949 advisory opinion on reparation for injuries suffered in the service of the United Nations case, the International Court of Justice found that

> "Under international law, the Organization must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by necessary implication as being essential to the performance of its duties."

That doctrine and Article 29 of the Charter, under which the Security Council can establish subsidiary organs necessary for its functions, is often used in the context of justifying the setting up of the ICTY. That doctrine has also been confirmed by the ICTY in the Tadíc case. However, this ignores the basic legal principle *nemo dat quod non habet*, meaning that one cannot give what one does not have. The Security Council has not been assigned any judicial functions under the Charter; therefore, under Article 29, or under the concept of implied powers, it cannot set up a subsidiary body, entrusting to it functions which the Council itself does not possess. In so doing the Council did not take a legitimate peace-enforcement measure under any article or articles of Chapter VII, notably under Article 41. It took, simply, a lawmaking — not to mention law-determining and law-enforcing — measure which fell outside its functions under Chapter VII or any other provision of the Charter or general international law.

International humanitarian law requires that trials for violations must be scrupulously fair and consistent with contemporary international standards. Therefore, the Tribunals, in bringing to justice those who bear the greatest responsibility for serious violations of international law, must ensure that they provide for the highest standards of fair trial.

The purpose of prosecution is to accomplish at least two goals. The first is to punish the guilty. The second is to promote a range of socially desirable results, including the deterrence of future offences and the fostering of an overall respect for the rule of law. In instances where the cases grow out of profound national traumas, such as civil war or a period of repression, the reassurance of the citizens, the promotion of national, ethnic and political reconciliation, and the fostering of national catharsis are also seen to be critical goals. Although international prosecutions can perhaps achieve the first goal — punishing the guilty — they are often not equipped to deliver on the others. There is a view that when such international prosecutions are undertaken by foreign judicial systems or tribunals with little or no connection to the perpetrators, victims, or offences, they are invariably uncoupled from the political, social and economic context of the affected country.

Further, given the challenges associated with investigating and prosecuting international crimes, the International Tribunals cannot prosecute all perpetrators. Therefore, strengthening national judicial systems to prosecute such crimes is extremely essential. Creating effective and lasting legal and judicial institutions that uphold the rule of law is necessary for the maintenance of peace. Therefore, the international community must continue to strengthen national justice systems by building the local capacity of judicial personnel. That includes the further training and mentoring of the local judiciary, as well as a timetable to gradually introduce local judges and prosecutors into sensitive cases.

According to the reports of the Tribunals, the ICTY has developed a cooperative relationship with neighbouring States and regional institutions, and the ICTR, through its Outreach Programme, has worked on capacity-building by training Rwandan jurists, advocates and human rights practitioners through seminars and workshops aimed at strengthening knowledge of international humanitarian law and criminal law. Those are commendable efforts. In that regard, the establishment of the War Crimes Chamber of the State Court of Bosnia and the transfer of cases to that Chamber by the Yugoslav Tribunal are further steps in the right direction, although the ICTY should have been set up by the General Assembly.

We hope that both the Tribunals will be able to complete their work within the time frames stipulated by the relevant Security Council resolutions.

Mr. Shinyo (Japan): I would like to thank the Presidents of the two Tribunals, Judge Erik Møse and Judge Fausto Pocar, for presenting their annual reports to the General Assembly.

Japan understands that both Tribunals have been continuing their efforts to ensure the completion of all trials by the end of 2010. We reiterate our position that both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) should be strongly encouraged to achieve their completion strategies by exploring all necessary and appropriate measures.

We consider the termination of the Milosevic trial, due to the death of the accused in detention in March this year, to have been an unfortunate event, because his death has made it more difficult for the truth to be established regarding the conflict in the former Yugoslavia and the crimes individually committed by the accused. Japan continues to hope that the ICTY will fulfil the purpose of its establishment: bringing to justice those responsible for serious violations of international humanitarian law.

From that point of view, it is an urgent task to bring about the arrest and extradition of the remaining key fugitives, Radovan Karadzic and Ratko Mladic. We strongly urge all neighbouring States, including Serbia, to make their utmost efforts to that end. Japan also remains concerned that the arrest and extradition to the ICTR of Félicien Kabuga have yet to be accomplished.

We note with appreciation that the multi-accused trials in the ICTY commenced earlier than planned. We are very interested in the further development of those trials. With regard to the request by the Secretary-General for the extension of the terms of office of the 18 ad litem judges of the ICTR, we are ready to support such action in order to facilitate the fulfilment of the completion strategy.

Given the deadline provided in the completion strategies, the time has come for us to focus our

activities on capacity-building and outreach activities at the regional, national and community levels. We believe that the establishment of the rule of law in the States and regions concerned is vital for real justice and confidence in the reconciliation process. With that in mind, Japan, in cooperation with the United Nations Development Programme, has been conducting a project to assist the War Crimes Chamber in Bosnia and Herzegovina by training judicial staff members and providing needed equipment. The training for the judges was recently carried out, and the training session for the prosecutors will be held beginning on 10 October, including training in the use of ICTY evidence in the War Crimes Chamber and access to the ICTY's resources and database. That project also includes awareness-raising programmes to help local people understand that those responsible for the war crimes are being brought to justice.

Given the prospects that Tribunals will complete the first round of trials by the end of 2008, it is now time to give further consideration to the precise scheduling of appeal cases, although we understand that there are a number of unpredictable factors involved. Japan requests that the regular reports of the Tribunals to the Security Council and the General Assembly also address that task.

We strongly hope that the efforts of the international community over the past 10 years will be fully reflected in and integrated into regional, national and community capacities.

Mr. Rogachev (Russian Federation) (*spoke in Russian*): We wish to thank the leadership of both Tribunals for their annual reports on the work of their courts and for their statements to the General Assembly.

We take note of the progress made by the International Criminal Court for Rwanda (ICTR) over the past year. We welcome its ongoing efforts to implement the completion strategy, as called for in decisions of the Security Council. During the period under review, the President of the ICTR promptly informed the Secretary-General about the problems that had arisen in the work of the Tribunal with regard to the expiry of judges' mandates. We are pleased to note that the Security Council and the General Assembly swiftly addressed the matter and took appropriate and legally correct decisions based on the items contained in the ICTR's completion strategy. Accelerating the trials and improving the staffing of the Tribunal's support services are also on the agenda.

Mr. Chidyausiku (Zimbabwe), Vice-President, took the Chair.

Unfortunately, however, we are unable to provide a similar assessment with regard to the work of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY). That politicized, non-transparent and costly body often finds itself under unremitting criticism from various parties. This year, the reputation of the ICTY generally declined following the deaths of the main indictee, Mr. Milosevic, and of another indictee, Mr. Babic, in the Scheveningen prison.

We note unacceptable bias in judges' decisions. It is unfortunate that the report does not contain a comparative table of the number of those convicted broken down by nationality and the length of prison sentences handed down to indictees of different nationalities for crimes of similar nature and gravity.

We expect the Tribunal to abide strictly by the completion strategy in accordance with the deadlines set by the Security Council. In that regard, we would like to note that the leadership of the Tribunal has recently undertaken some administrative steps to that end. However, we shall deem satisfactory only those decisions and actions by the ICTY's leadership that adhere to the strategy. The ICTY's failure to produce Mr. Mladic, Mr. Karadzic and other indictees cannot be viewed as justification for the unlimited extension of the Tribunal's work.

We welcome the efforts to strengthen the capacities of national criminal justice bodies, which would seamlessly receive litigation materials against individuals who fall under the jurisdiction of the ICTY and the ICTR.

In our view, it is time to begin to look into organizational matters related to the completion of the Tribunals' work: the retention of archives, pensions for judges and so on. We would expect chapters on such matters to be included in subsequent reports of both Tribunals.

Mr. Muchemi (Kenya): I wish to express my delegation's gratitude to the President for the able manner in which she continues to conduct the

deliberations of the General Assembly. Allow me also to express our gratitude to both Judge Erik Møse of the International Criminal Tribunal for Rwanda (ICTR) and Judge Fausto Pocar of the International Criminal Tribunal for the Former Yugoslavia (ICTY) for their comprehensive reports this morning on the work of their respective Tribunals.

I should just like to make a few comments with regard to the report on the ICTR (see A/61/265). The ICTR has made significant progress in the implementation of its completion strategy. We recognize that the success of the court in completing its work by the envisaged date of 2008 hinges heavily on the full cooperation of Member States. In that connection, we applaud the recent decision by the Security Council, in its resolution 1684 (2006), to extend the terms of office of the permanent judges to the end of 2008. We urge Member States to consider positively the subsequent requests by the Tribunal to accord similar extensions to the terms of office of ad litem judges.

It is a matter of great concern to my delegation that a large number of indictees — 18 in total — are still at large. While, as pointed out by the President of the Tribunal, it is unlikely that the court will be able to bring all 18 indictees to trial by 2008, that should not slacken our efforts to pursue and arrest indictees who are still at large and to transfer to the Tribunal for the necessary attention.

For its part, the Government of Kenya has been steadfast in its cooperation with the ICTR since its establishment. During and after the Rwanda genocide, many Rwandan nationals fled into Kenya as refugees. It later transpired that some of those refugees had participated in the genocide and had been indicted by the ICTR. Kenya has worked very closely with the Tribunal since its establishment. Indictees found to be in Kenya have been arrested and promptly transferred to the court at Arusha.

However, there have been allegations — and I repeat that they are allegations — that the infamous indictee Félicien Kabuga, who is still at large, has been sighted somewhere in Kenya. The Government of Kenya has taken those allegations very seriously, and is cooperation with ICTR officials in Kenya and in Arusha to try to establish the whereabouts of Mr. Kabuga. As recently as last month, Mr. Hassan Jallow, Prosecutor of the ICTR, together with representatives of 25 diplomatic missions based in Nairobi, met with the Minister for Justice and Constitutional Affairs of Kenya, along with the Assistant Minister for Foreign Affairs, to discuss a strategy for tracing the whereabouts of Mr. Kabuga, and for effecting his arrest and eventual transfer to the Tribunal. A number of steps were agreed upon, including the establishment of a task force to implement the recommendations. We remain hopeful that those joint efforts will bear fruit in the near future, and that Mr. Kabuga will be arrested and brought to justice at Arusha.

The Acting President: We have heard the last speaker in the debate on these agenda items.

May I take it that it is the wish of the General Assembly to conclude its consideration of agenda items 72 and 73?

It was so decided.

Agenda item 74

Report of the International Criminal Court

Note by the Secretary-General (A/61/217)

The Acting President: I now call on Mr. Philippe Kirsch, President of the International Criminal Court.

Mr. Kirsch: I am pleased to present the second annual report (A/61/217) of the International Criminal Court (ICC) to the United Nations. In my remarks, I would like to speak about, first, where the Court stands today in its activities, and, secondly, the Court's place within the emerging system of international justice. I will start with the Court today.

Since the report of the Court was submitted, two additional States have joined the Rome Statute. Comoros ratified the Statute on 18 August and Saint Kitts and Nevis acceded to the Statute on 22 August. One hundred and two States have now ratified or acceded to the Rome Statute.

This year marked three years of the Court's operation. The terms of six of the first judges of the Court came to an end. In January, the States parties to the Rome Statute, meeting here in New York, elected six judges. As we enter the next triennium, the Court is moving towards its first trials.

Four situations have been referred to the Court. The Prosecutor is conducting investigations in three of those situations: northern Uganda, the Democratic Republic of the Congo and Darfur, the Sudan. Those investigations are taking place within the framework of a prosecutorial strategy, a new version of which was adopted by the Office of the Prosecutor this year in the light of the Office's experience. The Office of the Prosecutor has the exclusive responsibility to receive and analyse referrals, as well as communications from other sources.

The Pre-Trial Chambers may take certain measures relating to investigations, for example, reviewing the decision of the Prosecutor not to investigate a situation referred by the Court or authorizing an investigation on his own accord. However, the Prosecutor acts independently as a separate organ of the Court in evaluating the available information and deciding whether to open an investigation on his own accord or to request an arrest warrant. As such, the prosecutorial strategy, while harmonized with the Court's strategic plan, reflects the independence of the Office of the Prosecutor.

The first warrants of arrest were issued by the Court in 2005 in the situation in northern Uganda. The Office of the Prosecutor very recently indicated that DNA tests have confirmed that one of the five persons subject to the warrants is deceased. The other four warrants remain outstanding. Judicial proceedings have continued before the Pre-Trial Chamber on issues such as monitoring the status of execution of arrest warrants and the unsealing of confidential documents.

In the situation in the Democratic Republic of the Congo, Mr. Thomas Lubanga Dyilo was surrendered to the Court in March 2006, pursuant to an arrest warrant issued in February. Since Mr. Lubanga's surrender, proceedings have been conducted before the Pre-Trial Chamber on a wide range of issues, including the disclosure of evidence to the defence, the participation of victims in the proceedings and the protection of victims and witnesses. The Pre-Trial Chamber is addressing complex legal provisions of the Rome Statute that are being interpreted in practice for the first time.

One of the significant areas of activity has been balancing the disclosure of evidence necessary for the defence to prepare its case with the need to redact information to protect victims and witnesses. Over 400 documents and more than 5,000 pages of information have been disclosed or made available for inspection by the Prosecutor to the defence. Each page had to be reviewed for redactions necessary, again, to protect the security of witnesses and victims.

Before the case can proceed to trial, the Pre-Trial Chamber must confirm the charges. An initial hearing to confirm the charges was postponed in order to ensure that measures were in place to protect the security of witnesses. The hearing was subsequently postponed a second time out of concern for the rights of the accused and the need for the defence to be adequately prepared for the hearing which is now set for 9 November 2006.

The Court is committed to expeditious proceedings. But proceedings must also ensure the full protection of the rights of the accused and meet the Court's obligations to protect victims and witnesses. This concern is linked to the situation of the Court in the field, to which I shall return shortly.

The first pretrial proceedings have been conducted in the situation in Darfur, the Sudan. They have again dealt with issues such as the security of victims and witnesses. In addition, the Prosecutor has briefed the Security Council that local conditions have made it impossible to investigate in Darfur. Instead, the investigation is taking place in other countries.

In 2006, the Appeals Chamber addressed issues such as the scope of appellate review and decisions on jurisdiction and admissibility. The rulings of the Appeals Chamber constitute the final interpretations of provisions of the Rome Statute on issues that have been subject to litigation before the Pre-Trial Chambers and should result in accelerated proceedings in the future.

In the last year, the Prosecutor announced that two situations which had been analysed had been dismissed. The Prosecutor is analysing five other situations for jurisdiction and admissibility. Two of these situations have been made public — the situation in the Central African Republic, referred by that State party to the Court and the situation in Côte d'Ivoire, a non-State party which has accepted the jurisdiction of the Court.

Turning now to operational aspects, the focus of the Court's activities over the past year was in the field. Security in the field continues to be an

omnipresent concern. The Court is operating in circumstances of ongoing conflict or other potentially volatile situations. The extent of the challenges facing the ICC from that perspective is unlike anything experienced by other courts or tribunals. Our activities must be carried out in such a way as to ensure the safety of staff, victims, witnesses and others at risk. At times, this focus on safety has caused delays in Court activity. Missions to the field have been cancelled at the last moment due to rapidly changing events on the ground. Earlier this year, rising violence forced the temporary closure of the Court's field office in Chad, which is operated in connection with the investigation into Darfur, the Sudan. The Office has since been reopened. Operating in the midst of ongoing conflicts also requires additional precautions such as arranging standby medical evacuation capacity.

The Court maintains substantial fixed presences in the Democratic Republic of Congo, Uganda and Chad. These offices assist the Court in carrying out functions such as witness protection, victims' participation and reparations, and support to defence counsel.

One of the most important of the Court's field activities is outreach to local populations. An integral part of justice is that it is seen to be done. The ICC, its role and its activities must be understood. This is important not only for its own sake, but also for facilitating necessary cooperation. The Court continued to build on its outreach efforts in the situations in northern Uganda and the Democratic Republic of the Congo. Outreach teams are in place in both countries, and staff from The Hague also travel to the field on outreach missions. The Court's outreach included both general awareness-building and programmes targeted specifically to certain groups such as victims, counsel or the media. The situation in Darfur has made outreach more difficult, as the Court is not able to operate within the territory.

Outreach is a necessary tool to ensure that judicial proceedings are understood locally. This can also be accomplished by other means, notably by holding proceedings where crimes were committed. The Rome Statute allows the Court to sit outside The Hague. In the course of the general debate within the General Assembly in this last year, States expressed the wish that the Court carry out, in due course, some proceedings in the field. The decision to do so will have to be taken by the judges in accordance with the Statute and Rules of Procedure and Evidence. But the Court is preparing for future proceedings to be held in the field, subject to acceptable conditions, in particular, security. An estimate of the resources needed to conduct hearings in the field has been included in the 2007 budget. In the longer term, having an appropriate geographical distribution of activities is one of the important objectives in the Court's strategic plan.

(*spoke in French*)

I would now like to talk about Court's role in the emerging system of international justice.

The experience of the last few years has reinforced the importance of cooperation for the ICC. I have already said that five arrest warrants delivered by the Court are still to be executed. The Court does not have the power or the ability to arrest those individuals. That responsibility is incumbent upon States and other actors. Such support is obviously essential. Without arrests, there can be no trials.

States can provide support to the Court in a number of ways. They can provide evidence that they have in their possession or allow the Court easier access to other evidence. The Court's ability to investigate and conduct trials will depend on the quantity and quality of the information that it receives. States can also assist the Court in holding hearings on individuals, search and seizure, identification or the locating of assets.

Furthermore, a number of States have signed agreements relating to the reintegration of witnesses. It is essential that we establish an extensive network of such agreements so as to ensure that witnesses are able to testify without fear of reprisal, bearing in mind their physical and psychological well-being. If the resettlement of such witnesses is to be successful, they must have the opportunity to reintegrate. That is why it is particularly useful to conclude agreements with States making it easier for witnesses to adapt culturally.

The Rome Statute also provides for persons convicted by the Court to serve their sentences in the States that accept them. To date, one State has signed a bilateral agreement with the ICC providing a general framework for serving sentences.

Finally, logistical and operational support would be particularly useful to the Court. In this connection,

France facilitated the transfer of Mr. Labanga by making an aircraft available to the Court.

In addition to States, international and regional organizations are making an important contribution to the work of the Court. The support of the United Nations has been essential in enabling the Court to carry out its activities, in particular in the field. The United Nations peacekeeping Mission in the Democratic Republic of the Congo has provided logistical assistance to the institution, in particular by housing and transporting individuals. The Security Council's sanctions Committee facilitated the transfer of Mr. Labanga to the Court by lifting the travel ban that he was under so that he could be transferred to The Hague.

Effective cooperation between the Court and the United Nations requires the coordination of efforts and the sharing of information. The Court greatly appreciates the opportunity it to give an account of its work each year to the General Assembly. We cooperate regularly with the United Nations and share information with the Organization by other means throughout the year. I am pleased to inform the Assembly that the Court has established a liaison office here in New York to facilitate this cooperation. The head of the office recently took up his post.

Regional organizations can provide the Court with support similar to that provided by States or the United Nations. Support from organizations that are active in the regions where the Court is working is particularly important. A cooperation agreement was signed in April with the European Union, and we hope that we will soon conclude an agreement with the African Union. This summer, the Prosecutor and I participated in a meeting with the African Union Peace and Security Council held at Addis Ababa.

Like some other representatives of the Court, I have also taken part in a number of meetings with the Organization of American States. We are doing our utmost to strengthen those contacts. We have also been in touch with other regional organizations, and we hope to strengthen those ties in the near future. This emerging system of international justice goes beyond cooperation with the ICC, because it encompasses other institutions whose goal is to end impunity.

We must bear in mind that ultimately it is the task of national jurisdictions, first and foremost, to investigate international crimes, as with any other crime, and to prosecute those who committed them. The ICC intervenes only when national jurisdictions do not have either the will or the ability to properly conduct the investigation or the prosecution. In this context, in order to maximize the ability of States to put an end to impunity and to prevent the commission of other crimes, States' resources for combating such crimes should perhaps be increased.

Ad hoc tribunals and other jurisdictions, such as the Special Court for Sierra Leone, have similar objectives to ours. More and more, these international tribunals are assisting each other on a reciprocal basis with a view to carrying out their respective missions. The ICC has made available to the Special Court for Sierra Leone buildings and services in The Hague so that the trial of Charles Taylor can go forward; all expenses must be paid in advance by the Special Court.

The various courts and tribunals regularly exchange information. Last weekend, the Office of the Prosecutor of the ICC and the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia jointly hosted the third Colloquium of International Prosecutors. The clerks of the various international courts also meet together every year.

(*spoke in English*)

The General Assembly has previously stressed that bringing to justice perpetrators of war crimes and massive violations of human rights and humanitarian law should contribute significantly to prevention. In his recent progress report on the prevention of armed conflict (A/60/891), the Secretary-General observed that the ICC is already having an effect in deterring such crimes. We are now also seeing specific indications from different sources that the ICC is having an impact on situations where it is active. As proceedings progress, the deterrent effect of the ICC should increase over time, as envisioned in the preamble to the Rome Statute.

In paragraph 108 of his report on the work of the Organization (A/61/1) over the past year, the Secretary-General stated that the establishment of the ICC "demonstrated the international community's commitment to a permanent and universal mechanism to ensure that as regards those most serious of crimes, impunity will not be tolerated".

The ICC has done and will continue to do its part in putting an end to impunity by fulfilling its mandate,

as provided for in the Rome Statute. For its part, the international community must see that its fundamental commitment to ending impunity is upheld and must ensure the support and cooperation needed.

Ms. Lintonen (Finland): I have the honour to speak on behalf of the European Union (EU). The acceding countries Bulgaria and Romania, the candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia, and the European Free Trade Association country Iceland, member of the European Economic Area, as well as Ukraine and the Republic of Moldova, align themselves with this statement.

The European Union is firmly committed to ending impunity for the most heinous crimes of concern to the international community. The International Criminal Court (ICC) may well be seen as one of the greatest achievements in the fight against impunity in recent times. The EU reiterates its strong support for the work of the Court.

The importance of the ICC is to be seen in the wider context of international order. The Court is critically placed to contribute to a more peaceful and just world, promoting respect for international humanitarian law, human rights and the rule of law.

The EU remains convinced that peace and criminal accountability are not conflicting goals. Quite the contrary, to us sustainable peace cannot be achieved unless the demands for individual accountability for the most serious international crimes are duly addressed. Any society built on the rule of law has a greater possibility of coming to terms with past abuses.

The ICC plays a significant role in ensuring accountability where national judicial systems have failed or are not willing or able to function. As for deterrence and prevention, the EU views the ICC as an essential instrument for the prevention of genocide, crimes against humanity and war crimes. At the same time, the ICC is an institution for exceptional cases only. The primary responsibility of bringing offenders to justice continues to rest with States. One could also speak on the role of the Court in mainstreaming accountability for the most serious crimes and in strengthening local rule of law, including setting standards on due process.

The EU expresses its appreciation to the President of the ICC, Judge Philippe Kirsch, for presenting the second annual report on the work of the Court. The report clearly demonstrates that this body is a living institution, with the unsealing of the first arrest warrants against five leaders of the Lord's Resistance Army, as well as the first proceedings against an accused. In this respect, the EU welcomes the arrest and surrender of Mr. Lubanga to the ICC by the authorities of the Democratic Republic of the Congo and his subsequent transfer to The Hague. The investigations into the situation in the Sudan, as referred to the ICC by the Security Council, should also be mentioned in this context.

The EU supports the goal of the Court to become the centrepiece of an emerging system of international criminal justice. The EU welcomes the Court's increased cooperation with other international and hybrid tribunals. That is important for sharing experiences, establishing best practices and for ensuring consistent interpretation and application of the law. In particular, we welcome cooperation with the Special Court for Sierra Leone, with a view to facilitate that Court's implementation of its mandate.

Furthermore, the European Union cherishes the deepened cooperation with international organizations, in particular with the United Nations. The United Nations is a critical partner to the ICC in the field, as it may be in a position to provide the Court with evidence or logistical support. We are pleased that the liaison office of the ICC to the United Nations has just been established. The EU wishes to extend its appreciation and heartfelt thanks to the Secretary-General for his valuable support extended to the ICC throughout his term and requests him to make this support even more tangible on the ground.

The EU is pleased to have concluded an agreement with the ICC in April this year on cooperation and assistance, and it encourages other relevant organizations, including the African Union, to formalize their cooperation with the Court.

The European Union is a strong and active advocate for the universality of the ICC, and a dedicated defender of the integrity of the Rome Statute. The EU reiterates its call upon all States that have not yet done so to ratify or accede to the Rome Statute, as well as to the agreement on privileges and immunities of the Court. The EU is willing, within its established

mechanisms, to assist with the ratification process of the Statute or with its implementation.

As the ICC is now truly operational, the effective cooperation and assistance by States, as well as the United Nations and other international and regional organizations extended to the Court has become more important. Bringing the perpetrators of the most serious crimes to justice is not only in the interest of victims and affected communities, but also serves the interests of the international community as a whole.

As the ICC does not have enforcement capacity, assistance is particularly needed for the arrest of suspects, the provision of evidence, the relocation of witnesses and the enforcement of sentences. Under the Rome Statute, it is the States parties that bear responsibility for arresting suspects and delivering them to the Court for prosecution. We call on all concerned to fully extend such cooperation.

The EU welcomes the work done by the Court to develop its strategic plan and urges the Court to continue its consideration and work in this area. The EU also invites the Court to continue the dialogue with the State parties that has now been initiated.

The EU welcomes also the ICC's intensified efforts relating to its outreach activities in the field. Reaching out to societies and people affected by crime is extremely important for the successful discharge of the wider mandate of the Court. The activities of the Court in this respect are particularly important when reaching out to victims who have an internationally unique role under the Rome Statute. The EU looks forward to discussing the Court's strategic plan for outreach at the meeting of the Assembly of States Parties later this year.

Finally, the EU wishes to thank the Liechtenstein Institute on Self-Determination at Princeton University, as well as Ambassador Christian Wenaweser and his staff, for organizing at Princeton last June the third Intersessional Meeting of the Special Working Group on the Crime of Aggression. These meetings have proved to be highly conducive for the preparation of provisions relating to the crime of aggression, the definition of which is of interest to United Nations Members as a whole. The European Union encourages the widest possible participation at the meetings of the Special Working Group, which is open to all Member States of the United Nations.

Mrs. Ferrari (Saint Vincent and the Grenadines): I have the honour to speak on behalf of the Member States of the Caribbean Community (CARICOM).

We thank the President of the International Criminal Court (ICC), Judge Philippe Kirsch, for introducing the second annual report of the ICC to the United Nations (A/61/217). CARICOM notes with satisfaction the progress made in the development of the Court into a fully functioning judicial institution. In particular, the report details some significant milestones in the activities of the Court, including the first warrants of arrest for five members of the Lord's Resistance Army (LRA) who are charged with crimes against humanity and war crimes. As the report notes, none of the five LRA members has as yet been arrested, since the Court does not have its own police force and must rely on the cooperation of States.

We call on the Member States concerned to offer full and unconditional cooperation to the Court so that the judicial process may be continued and justice delivered. We commend those States that have cooperated in the arrest and surrender to the Court of Thomas Lubanga Dyilo, who is charged with war crimes, including the enlistment and conscription of children under the age of 16. The Court was thus able to bring its first proceedings against an accused.

It is vitally important for the credibility and international recognition of the Court that it is seen to be functioning appropriately in its role in bringing to justice those responsible for crimes of genocide, war crimes and crimes against humanity, which have caused such great suffering and oppression to the weak and vulnerable populations of the world. Thus, we cannot stress highly enough the need for its judicial officers and other staff to remain highly motivated and committed, and for all States Members of the United Nations to cooperate fully with the Court as it strives to perform its critical role.

At this juncture, CARICOM member States wish to underline the fundamental importance of cooperation of the international community with the Court in order to ensure that the Court successfully fulfils its mandate. As established in the Rome Statute, the principle of complementarity permits the State concerned to exercise the first option to try the persons responsible for the crime within the jurisdiction of the Court. However, when the Court must act, it must be able to rely on Member States, international and

regional organizations, civil society and other actors. It is essential that they provide the necessary cooperation and assistance to the Court in its many tasks, including the provision of evidence, the carrying out of arrest warrants and the surrender of accused persons to the Court, and in the area of the protection and relocation of witnesses. For example, the cooperation provided by the Governments of the Democratic Republic of the Congo, Uganda and Chad has enabled the Office of the Prosecutor to achieve significant progress in its investigations relating to the situations before the Court.

We commend the work of the Office of the Prosecutor, some of which puts the staff of that Office at risk. We are encouraged by the progress made towards bringing to trial the persons responsible for the situations being investigated, and by the Office's contribution to the development of the work of the Court.

In addition, the Court cannot conduct its many functions without the necessary financial resources. We therefore wish to encourage States parties which have not yet done so to pay their assessed contributions to the Court in full and on time.

We view the cooperation agreements entered into by the Court and other actors as progressive steps towards the successful operation of the Court. In this regard, we welcome the agreements signed between the Court and the European Union and the International Committee of the Red Cross (ICRC), and note that the ICRC has already conducted a visit to the Detention Centre. We look forward to the imminent conclusion of the agreements currently being negotiated with the African Union and the Asian-African Legal Consultative Organization and to the benefits which will flow to the Court as a result.

Another important area of cooperation with the Court is the indication by States of their willingness to accept sentenced persons to serve their sentences on their territories. We hope that the agreement concluded between the Court and the Government of Austria for the acceptance of persons sentenced by the Court is the first of many such agreements with States. Therefore, we encourage those States in a position to do so to offer to accept persons sentenced by the Court in accordance with the Statute.

Effective collaboration between the United Nations and the Court is a crucial factor in the Court's success. The Relationship Agreement, signed two years ago by the President of the Court and the Secretary-General of the United Nations on behalf of their respective institutions affirms the independence of the Court while at the same time establishing a framework for cooperation. CARICOM trusts that this collaboration will be forthcoming from all quarters of the United Nations. The Agreement articulates the unique cooperation between these two institutions in their shared goals of maintaining international peace and security and should be fully respected and implemented by both parties.

In this regard, the operational cooperation between the United Nations and the Court rendered by the United Nations Mission in the Democratic Republic of the Congo (MONUC) to the ICC in the Democratic Republic of the Congo relevant to the arrest and surrender of Mr. Lubanga Dyilo, is a positive step in the relationship.

We also welcome the establishment of the New York liaison office of the Court and the recent appointment of the head of that Office. It will further facilitate cooperation between the two institutions under the Relationship Agreement. As the face of the Court in New York, the office will provide States, international and regional organizations, civil society and individuals with a venue for recourse on matters which they believe to be of concern. The office will also facilitate the meetings of the Assembly of States Parties in New York. Similarly, CARICOM strongly supports the holding of meetings of the Assembly in New York in order to ensure wider participation by States parties and observer States, since all States, developed and developing, already have diplomatic representation in New York.

CARICOM warmly welcomes the two most recent States parties to the Rome Statute, one of our own, Saint Kitts and Nevis, as well as the Comoros, thus bringing the number of States parties to 102. We encourage other members of the international community to become States parties, so that the goal of universal ratification may become a reality. We also urge States parties to ratify or accede to the Agreement on Privileges and Immunities of the Court, as well as to enact the necessary implementing legislation for both those important instruments.

CARICOM is pleased that the Trust Fund for Victims is now becoming a reality and commends those

whose hard work and commitment has made this possible. We welcomed the election earlier this year of the new member of the Board of Directors of the Trust Fund, former President of Trinidad and Tobago, Mr. A.N.R. Robinson. We encourage States in a position to do so to contribute to the Fund. The ICC is the first court that recognizes the role of victims by enabling them and their families to seek reparation for genocide and other crimes against humanity.

We commend the work being undertaken by the Court to provide support and assistance to victims, and enable their participation in the proceedings of the Court, as appropriate. It is important that, in so doing, the rights of the defendants enshrined in the Rome Statute are fully respected and upheld.

The outreach activities in which the Court is engaged are far-reaching. We encourage such contact with local communities, especially those affected by the situations under investigation. We believe that spreading the message of the Court through interaction at the grassroots level with, inter alia, local journalists and media, legal associations and non-governmental organizations, is an important tool of the Court for reaching out to victims and informing them of the possibilities for their participation in the process and for reparations.

In closing, CARICOM member States wish to reaffirm our support for and commitment to the ICC. We are aware of the important role of the Court in the international community and the fact that it remains, for some victims of genocide, war crimes and crimes against humanity, the last bastion of hope for justice and compensation. We must strive to protect the integrity of the Court and encourage others to do so, including not only States parties and States concerned, but international and regional organizations as well as non-governmental organizations in such areas as preserving and providing evidence, sharing information and securing the arrest and surrender of persons to the Court. It is the hope of the CARICOM States that this cooperation will be willingly given to enable to Court to fulfil its mandate and meet the complex challenges that lie ahead.

Organization of work

The President in the Chair.

The President: I have received a letter from the President of the Security Council informing me that today the Security Council adopted by acclamation its resolution 1715 (2006), by which it recommends to the General Assembly that Mr. Ban Ki-moon be appointed Secretary-General of the United Nations for a term of office from 1 January 2007 to 31 December 2011. That communication will immediately be sent to all Member States by e-mail or facsimile. The time when the General Assembly will take action on this matter will be announced later.

With regard to agenda item 69, entitled "Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance", I have requested Mr. Jean-Marc Hoscheit, Permanent Representative of Luxembourg to the United Nations, to be the coordinator of the informal consultations on draft proposals under agenda item 69 and its sub-items (a) and (d). He has gracefully accepted.

As members will recall, sub-items (b) and (d) of agenda item 69 have been allocated to the Second Committee.

May I request delegations that intend to submit draft resolutions under agenda item 69 to do so as early as possible, in order to allow time, if need be, for negotiations with a view to reaching consensus on the draft resolutions.

The meeting rose at 1 p.m.